

REMARKS

This Amendment is being submitted concurrently with a Request for Continued Examination. On January 29, 2004, a Final Office Action issued where claims 1-72 were rejected under 35 U.S.C. § 112, second paragraph; claims 1-3, 5, 11, 15-19, 24, 28, 29, 44-47, 52 and 55-57 were rejected under 35 U.S.C. § 102 or, in the alternative, under 35 U.S.C. § 103; and claims 1-72 were rejected under 35 U.S.C. § 103. Applicants submitted a Response to the Final Office Action on April 29, 2004. The Patent Office then issued an Advisory Action on May 18, 2004 where the rejection of claims 2, 3, 17-19, 24, 28, 29, 45-47, and 55-57 under 35 U.S.C. § 102 or, in the alternative, under 35 U.S.C. § 103 was withdrawn, and where the remaining other rejections at final were maintained.

At the outset, Applicants note for the record that claims 1-72 have been maintained. At least for substantially the same reasons as discussed in Applicants' Response filed on October 15, 2003 and subsequent Response filed on April 29, 2004, Applicants believe that claims 1-72 should be rendered patentable.

Further, Applicants have added new claims 73-82 as discussed above. Of these claims, claims 73 and 77 are the sole independent claims. Claim 73 recites a two part dialysis solution including a bicarbonate concentrate; and an electrolyte concentrate, wherein the bicarbonate concentrate and the electrolyte concentrate include an equimolar amount of sodium of about 160 mmol/L or less. Claim 77 recites a method of providing hemofiltration to a patient. The method includes providing a two part dialysis solution comprising a bicarbonate concentrate and an electrolyte concentrate wherein the bicarbonate concentrate and the electrolyte concentrate include an equimolar amount of sodium of about 160 mmol/L or less; mixing the bicarbonate concentrate and the electrolyte concentrate to form a mixed solution; and using the mixed solution during hemofiltration. Applicants believe that new claims 73-77 are patentable over the cited art even if combinable.

With respect to Watanabe, at a minimum, this reference is deficient with respect to a two part dialysis solution that includes a bicarbonate concentrate and an electrolyte concentrate with equimolar amounts of sodium of about 160 mmol/L or less. Indeed, Watanabe provides, for example, a dialysis solution with a first composition that includes 90 to 140 mmols of sodium (see, Watanabe, col. 2, line 60) and a second composition that includes 15 to 40 mmols of

sodium (see, Watanabe, col. 3, line 1). Moreover, the sodium content associated with the second composition (bicarbonate) as provided therein clearly falls outside of the claimed sodium range of about 160 mmol/L or less, let alone about 100 mmol/L to about 160 mmol/L as further defined in new claims 74 and 78.

Even if combinable, Applicants believe that the remaining cited art cannot be relied on solely to remedy the deficiencies of Watanabe. With respect to Feriani, this reference fails to provide any sodium in an electrolyte composition, let alone in equimolar amounts as defined in claims 73, 74, 77, and 78 as discussed above. Further, the Patent Office has relied on van Bommel et al. for its purported teaching regarding hemodialysis and continuous renal replacement therapy. See, Final Office Action, page 4. Based on at least these reasons, Applicants respectfully submit that the cited art, alone or combined, is distinguishable from new claims 73-82 and thus, claims 73-82 should be rendered patentable.

Applicants note for the record that the Patent Office has maintained the rejection of claims 1-72 under 35 U.S.C. § 112, second paragraph. In response, Applicants submit that they did not intend to limit the claimed subject matter based on the arguments that were presented in the Remarks section of Applicants' Response filed on October 15, 2003. Applicants believe that their arguments were clear and should not be construed as limiting the claimed subject matter to a solution that includes potassium and equimolar amounts of sodium in each component as the Patent Office seems to suggest. See, Advisory Action, page 2. However, to the extent that Applicants' arguments can be construed otherwise, Applicants respectfully submit that this was an inadvertent mistake by Applicants and thus further submit that Applicants' arguments not be deemed to limit the claimed subject matter as discussed above. Indeed, Applicants believe that the claims define patentable subject matter in addition to a two part dialysis solution that includes potassium and equimolar amounts of sodium in each component. This has been argued in Applicants' previously-submitted responses and as further discussed above. Therefore, Applicants believe that the rejection under 35 U.S.C. § 112, second paragraph should be withdrawn.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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